

## Minutes

### RAFTS/ASFB Joint Working Group

#### 8<sup>th</sup> Meeting: Birnam Institute, by Dunkeld

11 August 2015

#### Present:

Alasdair Laing  
Andrew Wallace, Chair  
Chris Horrill  
Brian Davidson  
Jamie Ribbens  
Nick Yonge  
Simon McKelvey  
Roger Knight  
Mark Bilsby  
Marshall Halliday  
Craig MacIntyre

#### In attendance: (PM only)

Alan Wells (SG)  
Andrew Henderson (SG)

#### Apologies:

Alison Baker  
Jim Henderson  
Mark Bilsby

#### 1. Minutes of last meeting & actions

The minutes of the last meeting were approved by correspondence prior to this meeting – there were no further comments.

- **Paper on functions** - BD confirmed that the paper on functions had been updated by MB. The paper was subsequently provided as annex to the final WFR consultation response.
- **Protocol for management planning** - SMcK would seek to take this forward through one of the sub groups which would be tasked by the Stakeholder Reference Group. **ACTION: SMcK/CH/MB**
- **Future of ASFB and RAFTS** – it was agreed that any discussions would need to be undertaken with a clear mandate from both ASFB Management Committee and RAFTS Board. The timing of such discussions will be very important, and it was felt that it was too early to formally initiate these until there was a more tangible picture of the future management structure. It was agreed that both ASFB and RAFTS boards would include this issue for discussion at their next meetings and then the conclusions of those discussions would be brought back to the JWG for further consideration. **ACTION: AWA/AL**

#### 2. Update on progress with WFR

- **Stakeholder reference group (SRG) – short update**

CH reported that at the last meeting there had been some discussion on functions for management. The Group wants to consider in more detail the operation of FMOs and take a closer look at the functions. In doing so, it was keen to take into account the ideas produced by ASFB and RAFTS via the JWG. It is considering what is meant by 'decentralisation'. The Group will be setting up sub groups to consider specific areas – further detail is to be confirmed.

It was agreed that it is very important that any potential for duplication in work-streams within the SRG and JWG is reduced and to do this communication between both groups should be ongoing. Given that 3 members of the JWG also serve on the SRG, this should be achievable.

- **De-brief on WFR consultation response**

It was recognised that the process of formulating the response had been quite intensive and it had been challenging in some respects to reach consensus on all matters. Thanks were expressed to MH/BD/CH for their input to this work. It was also noted that both organisations had received several supportive comments from members on the quality of the document.

It was agreed that it would be useful to distil further from the response the key areas of agreement and disagreement. This would help provide an analysis of key issues and any specific differences of opinion and help move forward further discussions with Government on any of the more contentious matters. It would be helpful to establish what timescales will determine the Government analysis of consultation responses. An important issue is to understand the 'interdependence' of many of the ideas and options proposed, and how the alteration of one factor will have consequences for further options. **A short distillation of the key issues identified in the member consultation process would be prepared. ACTION: MH**

- **FMOs - Charitable status**

It was noted that the legal advice was based on the assumption that the national unit could be a separate Statutory Body and thereby a non-departmental public body responsible to Parliament, or a department within Scottish Government directly responsible to Ministers – this decision has yet to be made. If this assumption was correct, then it was considered that this might have a fundamental bearing on the relationship with, and the degree of direction given, to FMOs. It was agreed that further clarity will be required on the corporate/constitutional nature of the national unit, so that there is a better understanding as to how key operational functions, such as finance and delivery of law enforcement can be managed at national and FMO level. This would be explored further with Government when AWE/AH joined the meeting.

It was agreed that it would be useful to produce a short SWOT analysis on the various constitutional options for FMOs (based on current advice and understanding) – this should include statutory body, charity, company, SCIO, Community Interest Company etc. **ACTION: BD**

- **Other advice on assets, employment etc**

It was agreed that it will be essential to consider the implications of change to a new structure in the context of current DSFB and Trust assets. This should consider all assets & capital items, funds, offices, vehicles, equipment, property holdings, owned fishing assets etc. As part of this process, the implications for existing staff must also be considered. It was agreed that more knowledge on future FMOs will be required before this can be fully considered, however professional advice will be sought and shared. Discussion on this will be set for the next meeting. **Action: Agenda for next meeting**

- **FMOs – geographical matters**

AL/AWA reported that they had issued a letter to all Boards and Trusts suggesting that they would be available for meetings to discuss this issue. This had been well received by several boards/trusts and both AWA and AL had attended several local meetings to discuss potential partnerships and rationalisation of areas for consideration within a future network of FMOs. These discussions are continuing to prove useful and largely positive. Further discussions are planned and consideration will be given to producing draft ideas on this subject which have been generated locally, with the consent of those involved and only after most of these local discussions had been completed, either in person or by phone. It was agreed that it was preferable for the sector to come up with its own solutions on this matter rather than have solutions imposed on it. This required the sector to respond positively and quickly to this challenge. AWA and AL would continue to retain an open invitation to help develop these discussions but the initiative did need to come from the local areas. It was agreed that, if gaps or contentious issues are identified, then those areas will be approached for further discussion, prior to any information being made more widely available. However, it was agreed that the sector did need to provide solutions to this issue and it was agreed that the sector should continue to be encouraged to proactively consider this issue. It was agreed that an outline response to this challenge should be produced by October with full consultation with members. **Action: AWA and AL**

- **Discussion with Scottish Government (SG)**

The Chairman welcomed the attendance of Andrew Henderson and Alan Wells from Scottish Government. The following points emerged in the discussion which clarified a number of matters relating to the WFR process:

**WFR consultation** - Around 200 responses to the consultation had been received, and SG expect an analysis of responses to be complete by early autumn. Some clear messages had come through the process. These were about the importance of achieving an appropriate balance between local and national management, the need to preserve and encourage existing good practice and ensure continuation of empowered local management. Concern had been articulated about the funding and levy system and risks associated with ideas proposed. A key issue for SG is how to reconcile pleas to avoid increasing costs on anglers and management but at the same time respond to concerns that there is insufficient funds to service the system.

**Licensed killing** – The scheme is proposed for implementation for the 2016 season. It was emphasised that the measure is not a ban on netting, but rather a ban on killing salmon except under licence for all methods. The formal notice given by Ministers made clear that there would be a prohibition on killing out-with estuary limits, regardless of method. In the case of the Solway, it was recognised that there may be ‘certificated’ fixed nets operating within estuary limits, and these nets will have to demonstrate legal operation consistent with certificated use.

**SRG** – It was confirmed that Alister Jack has been appointed as a representative of fishing proprietors following concern expressed by ASFB and others at the lack of proprietorial representation on the group – it was agreed to let the ASFB membership know. **ACTION: AL/BD**

**Internal Stakeholder Reference Group** - the role of this group was explained. It will help bring together the range of other agencies and parts of Government that have an interest in fisheries management. It will work with SRG so that there can be properly co-ordinated input from Government as a whole into the WFR process.

**Timescales for legislation** –A draft bill is to be prepared and it is planned to launch this early in the New Year 2016 for consultation. Following that consultation and analysis of the associated responses, the Scottish

Government will carry out further work on the content for the final Bill. Dialogue with stakeholders, including ASFB and RAFTS, will continue during this period. It is expected that the earliest a full Bill could be submitted to Parliament would be autumn 2016. On that timetable, the Bill could probably be passed by summer 2017 and enacted and brought into force thereafter.. It was emphasised that these timings were very indicative and liable to change. Once the bill was enacted, then there would potentially be a period for phased implementation over a number of years. Legal and presentational considerations will be one of the determining factors governing to what degree the structure and functions of FMOs will be prescribed in detail (or not) in legislation. A careful balance will need to be struck as to how much needs to be prescribed in detail on the face of the Bill and how much might be delegated to be addressed in secondary legislation which would be made under order-making powers created in the Bill. The latter is more flexible but there will be areas where greater certainty and precision are required in the Bill itself.

It is highly unlikely that the legislation will prescribe areas or numbers of FMOs. The sector should bring forward ideas. This was welcomed and is consistent with the sector initiative to promote active discussion on this matter.

**National unit** – No decisions had been made on the form of the national unit – options could include: to be housed ‘in government’, an administrative arrangement within government, or a function co-ordinating other parts of government. Views are being considered on what may present the best options.

**Statutory status of local bodies and local collection and spend** – The group discussed the possible limitations in the way Government/Ministers might direct or influence FMOs if they were set up in a charitable structure. The Charities and Trustee Investment (Scotland) Act 2005 provides that an organisation cannot become a charity if its constitution allows Scottish Ministers to direct or otherwise control its activities (though Ministers may dis-apply this requirement by making an order). AH and AWE cited examples in which this requirement has been dis-applied, such as further education establishments, the National Museums of Scotland and Royal Botanical Garden, Edinburgh. However, it was agreed that further discussions on the most suitable options for structuring a national unit and its relationship with FMOs was required. They reported that, to date, that no fundamental impediments had been initially identified which would necessarily restrict FMOs set up as charities to perform core fishery management functions though some aspects of enforcement required further examination. There was recognition that DSFBs currently have limited statutory powers – only power to raise levy and appoint bailiffs. They are also statutory consultees on aquaculture planning and that this was an area of current confusion and inconsistency with planning bodies etc. which would benefit from clarification. It was noted that many of the current regulations and orders could be proposed by DSFBs but the actual decisions lay with Ministers – a situation that could perhaps be replicated in the FMO structure. AWE and AH pointed out that FMOs, as bodies approved by Scottish Ministers to deliver fishery management functions would continue to enjoy an appropriate and enhanced status in any relevant consultative processes and indicated that they understood the importance of effective consultee status.

### **3. Communications and members meetings**

It was noted that communications to members were much improved, and that there should be no change to the current strategy. It was agreed to consider how ASFB members might be involved when RAFTS convened regional meetings. This would be considered. **ACTION: CH/AWA/AL/BD**

#### **4. Angling promotion and development – update on discussions with Angling Trust**

A meeting had been convened with the Angling Trust and various governing bodies / angling representative bodies in Scotland. Whilst this was a very early discussion, there was a suggestion and acceptance within the meeting that a properly constructed system of 'angler contribution' with appropriate and meaningful re-investment may be worth discussing further. It was agreed that it would be worth considering a workshop to consider further ideas and how additional funds might be used. **ACTION: AWA**

#### **5. Any other business**

None.

#### **6. Date of next meeting**

10.00, ASFB/RAFTS Office 23 September (before ASFB Management Committee)